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SUBJECT: UNITED STEETWORKERS UNION HIGHLIGHTS CONTINUING  
DISPUTE BETWEEN GOM, MINING INDUSTRY AND THE NATIONAL  
MINERS, UNION

REF: 07 MEXICO 1925

11. SUMMARY: Secretary Clinton,s recent visit to Mexico prompted the US president of the United Steelworkers Union (USW) to write to her on behalf of Mexico,s National Miners Union (SNTMMSRM). The letter, which received extensive media coverage, highlighted various aspects of the long running dispute between Mexico,s mining industry, the SNTMMSRM and the current and previous GOM administrations. At roughly the same time a number of pending court cases involving the GOM and the SNTMMSRM were tentatively decided. The net results of these court decisions effectively insured that the two sides would continue their ongoing dispute for the foreseeable future. Some of the questions involved in the larger dispute with the Miners, Union on one side and a de facto alliance between the mining industry and the GOM on the other involve such issues as the right of workers to organize, to freely choose their representatives and the right to bargain collectively vs. the GOM,s efforts to end alleged union corruption and to support the rights of individual workers who disagree with the union,s leadership.  
END SUMMARY.

#### Background

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12. A long running dispute between two leaders within Mexico,s National Union of Miners and Metalworkers (SNTMMSRM) was further complicated in 2006 when the administration of then President Vicente Fox became involved. The leaders in question were Napoleon Gomez Urrutia; the then officially recognized head of the union, and Elias Morales Hernandez, a long-time union official. The struggle between them began in 2002 when both ran to become SNTMMSRM Secretary General, the union,s top elected executive position. Ultimately Gomez won and became the leader of the SNTMMSRM. Morales never accepted his defeat and argued that Gomez was ineligible to serve as union leader since (allegedly) he had never actually worked as a miner; a minimum requirement for office outlined in the SNTMMSRN statutes.

13. Four years into his term as the legal head of the SNTMMSRN, Gomez was ousted from his position by Morales and his supporters on the union,s internal affairs unit (CVJ) with the concurrence of the then Fox administration,s Labor Secretariat (STPS). The basis for Gomez, removal was an allegation that he embezzled USD 55 million in union trust

funds. The allegation was based on a document of questionable validity from the CVJ requesting that the GOM remove Gomez from office because of his fraudulent activities. The GOM took no action to validate the accusations against Gomez. Instead, the Fox government,s STPS withdrew its recognition of Gomez as the head of the SNTMMSRN, filed various criminal charges against him and unilaterally declared Morales the new union Secretary General. The GOM also finally accepted Morales, claim that Gomez never met the qualifications for elected union office since he never actually worked as a miner.

14. In response to these GOM actions, Gomez fled to Canada where he continually proclaims his innocence. Initially Gomez provided little in the way of a convincing accounting of what happened to the USD 55 million which was last seen in one of the Mexican branches of a Canadian bank. Gomez, removal as the leader of the miners, union generated considerable interest and controversy in labor circles both within Mexico and internationally. Most, although certainly not all, of the union,s rank and file continued to support Gomez. Many of Mexico,s established unions also came out in his support. Internationally, the United Steelworkers unions (USW) in the US and Canada strongly supported Gomez. The USW even filed a submission on the SNTMMSRN's behalf under the terms of the North American Agreement on Labor Cooperation (NAALC), a side agreement to NAFTA. Unfortunately for the SNTMMSRN, the submission was declined.

#### Calderon Administration Tries a Different Tact

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15. Shortly after taking office in December 2006, President Felipe Calderon,s government moved quickly to solve the SNTMMSRN leadership dispute. According to a senior STSP official, the Calderon government believed the Fox administration needlessly took sides in an internal union matter and wanted to find a way to reinstate Gomez as the leader of the Miners, Union. This was ultimately accomplished via a labor court ruling which determined that Gomez had been improperly removed from office. The same court ordered that Gomez be reinstated as SNTMMSRN Secretary General for the remainder of his original elected term of office.

#### GOM and Union Clash Once Again

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16. In retrospect it now appears that the Calderon government had hoped Gomez would serve out his terms and then quietly step down or at least avoid confrontation. Instead the SNTMMSRN continually pushed for wage settlements in excess of GOM recommendations and which surpassed salary increases accepted by other unions. The SNTMMSRN also associated itself with Mexico,s main opposition party and repeatedly took public stances opposing GOM initiatives. By mid-2007, in the face of what it probably viewed as SNTMMSRN intransigence, the Calderon government renewed the embezzlement charges against Gomez first filed by the Fox administration and then vigorously pressed Canada to extradite him to face criminal charges in Mexico. Thus far the Canadian government has declined to accept the GOM,s arguments that Gomez, handling of the trust rises to the level of criminal activity and consequently has refused to order his extradition.

17. Once the Calderon government renewed the criminal charges against Gomez, it and the SNTMMSRN initiated a series of court cases against each other. Many of these cases dealt in one way or other with the allegedly embezzled USD 55 million. At issue was the GOM position that the funds belonged to the workers and not to the union. The SNTMMSRN argued that the

funds were given to the union to administer for the workers as determined by the organization,s duly elected leadership.

Over the following months the union presented information in the courts which purported to provide an accounting of trust fund disbursements.

18. In May 2008 Gomez,s term of office ended and, despite self-imposed exile in Canada, he ran for and won reelection as union Secretary General. This reelection notwithstanding, the GOM argued that he was ineligible to hold union office since he had never worked as a miner as required by SNTMMSRN statutes. On the basis of these statutes the GOM refused to grant official recognition to Gomez. Without official recognition Gomez cannot be legally ratified as SNTMMSRN leader. Gomez subsequently sued the GOM to have his reelection legally recognized.

#### USW Renews Its Supports for the Miners, Union

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19. Internationally the GOM,s actions were viewed as harassment and the USW and the International Metalworkers Federation both began a letter writing campaign on behalf of the SNTMMSRN. The majority of these letters were written to President Calderon but the most recent one was addressed by the USW to Secretary Hillary Clinton. The letter was sent by USW president Leo W. Gerard and timed to coincide with the Secretary,s visit to Mexico.

110. The USW letter accused both the Fox and Calderon administrations of a sustained three year &attack8 on the SNTMMSRN and urged the Secretary to reject Mexico,s anti-worker policies and repudiate the GOM,s assaults on Gomez. Some of the accusations against the GOM were as follows:

- The USW decried the Fox administration,s actions removing Gomez from office and the Calderon administration,s

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refusal to recognize his reelection;

- It condemned the GOM,s repeated filling of criminal charges against Gomez for embezzlement despite the fact that the courts have repeatedly ruled in the union leader,s favor;

- Rejected the GOM,s support for the mining industry,s efforts to replace the SNTMMSRN with company friendly unions in at least eight locations;

- Disparaged the GOM,s actions to declare SNTMMSRN strikes illegal only to have the courts rule against these government declarations again and again.

#### The Courts Decide ) It,s A Tie

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111. In the weeks since Secretary Clinton,s March 23-24 visit, the Mexican courts have ruled on many of cases the SNTMMSRN and the GOM have filed against each other. The initial round in this legal battle went to Gomez and his supporters in the Miners, Union. The competent courts authorized an injunction against prosecution for Gomez over his handling of the USD 55 million dollars in union trust fund. Gomez, lawyers immediately issued a press statement claiming that the rulings removed the basis for the criminal charges against Gomez and any foundation the GOM had for the extradition request made to Canadian authorities. Dissidents within the union, whom the GOM says it is representing, claim funds were to be given to individual workers affected by privatization and not to be handled as the union saw fit. The GOM plans to re-file the case on that basis.

¶12. The second round went to the GOM. When the STPS refused to recognize Gomez, reelection as union leader this past May he filed a court suit to force the GOM to recognize his electoral victory. In this matter the courts ruled that there is no credible evidence to indicate that Gomez ever worked as a miner as required by SNTMMSRN statute for holding elected union office. On that basis the courts ruled that the GOM was fully justified in denying him legal recognition as the head of the Miners, union. The question of Gomez, eligibility to serve in an elected union position has been pending since 2002. The GOM clearly won this round but Gomez,s lawyers have already indicated they planned to appeal this case.

¶13. Of the other remaining court cases the union and GOM have filed against each other one of the most significant involves the legality of a strike by some 1200 workers at the Cananea mine in the western Mexican coastal state of Sonora. This strike is more than two years olds and the GOM and mining industry jointly filed suit to have the strike declared illegal. On March 29 a labor court ruled that the strike was indeed illegal and that the mine owners were free to fire any employee who did not immediately return to work. This labor court decision was widely reported in the media as a serious blow to Gomez and the SNTMMSRN and it surely would have been had it been allowed to stand. However, the union appealed the decision and during the week of April 13 won its case in court. The mining industry and the GOM will almost certainly re-file it case to have the Cananea strike declared illegal. This particular case appears to be a tie.

Comment

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¶14. For now the long running struggle between the SNTMMSRN, the GOM and mining industry appears to be deadlocked. The three major court cases cite above that currently define the conflict have effectively resulted in a stalemate. In reviewing this matter it appear that many of the points raised by the USW have some validity up to a point. There is no doubt that both the Fox and the Calderon administration have had their differences with the SNTMMSRN. In some cases it appears the GOM acted improperly to resolve these differences in its favor. For example, the Fox administration,s action to remove Gomez as union leader was highly questionable. Subsequent information tends to

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indicate that Gomez acted within his authority to handle the USD 55 million in trust funds as he saw fit. That said, the GOM,s position that it was defending the rights of dissident workers within the union unhappy with how the trust funds were being used, is a valid point.

¶15. Mexican law is unclear on whether the union or an individual worker can ultimately decide on how organization resources are used. Mexican legal precedent would argue in favor of the union. However, experience has shown that many unions are indifferent to the wishes of individual members so the GOM could justifiably argue a need to police the actions of corrupt unions. In looking at whether the GOM could legally deny recognition of Gomez reelection both sides have compelling points to make. Gomez and his supports can argue that workers have the right to choose their representatives. The GOM can legitimately claim that the union must uphold its own statutes. In this case, the statutes say that persons seeking elected union office must have actually worked as a miner. Serious questions have been raised about Gomez,s claim regarding his eligibility for office; many of which have not been credibly resolved. In short, neither side in this dispute can reliably claim to have acted correctly one hundred percent of the time. This lack of earnestness by all sides surely means that the disputes between them will continue to be played out in the Mexican courts for some time to come.

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